

(2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.

(3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.

(4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.

(5) When a waiver is granted in accordance with this subpart.

NOTE: Payments in excess of an application fee will be refunded only if the overpayment is \$8 or more.

(6) When an application for new or modified facilities is not timely filed in accordance with the filing window as established by the Commission in a public notice specifying the earliest and latest dates for filing such applications.

(b) Applicants in the Mass Media Services designated for comparative hearings will be entitled to a grant without payment of the hearing fee or a refund of the hearing fee paid in the following circumstances.

(1) The application is granted without being designated for hearing;

(2) The application is dismissed, voluntarily or involuntarily, prior to designation for hearing, in the order designating the case for hearing, or for failure to file a Notice of Appearance (see § 1.221 of this part);

(3) When only one applicant files a Notice of Appearance and pays the hearing fee, that single remaining applicant will be entitled to a refund of the hearing fee upon request if it is immediately grantable or if all issues specified in the designation order and requiring resolution can be deleted. See § 1.229 of this part.

(4) When a settlement agreement filed with the presiding judge by the Notice of Appearance deadline (see § 1.221 of this part) provides for the dismissal of all but one of the applicants, and the single remaining applicant is immediately grantable, no hearing fee is due. However, if the applicant cannot be granted without resolution of

issues specified in the designation order, it must pay the hearing fee. That payment will be refunded upon request if all outstanding issues can be deleted. See § 1.229 of this part.

(5) However, under paragraphs, (c) (3) or (4) of this section, hearing fees will be retained by the Commission in any case requiring a decision on the merits of an applicant's post-designation amendment or evidentiary showing, whether by Summary Decision or otherwise. See §§ 1.251 and 1.267 of this part.

(c) Applicants in the Mass Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice indicating that there is a previously filed pending application for the same vacant channel, such application notifies the Commission that they no longer wish their application to remain on file behind the first applicant and any other applicants filed before his or her application, and the applicant specifically requests a refund of the fee paid and dismissal of his or her applicant.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 56 FR 795, Jan. 9, 1991; 56 FR 56602, Nov. 6, 1991. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995]

§ 1.1114 General exemptions to charges.

No fee established in §§ 1.1102 through 1.1106 of this subpart, unless otherwise qualified herein, shall be required for:

(a) Applications filed for the sole purpose of modifying an existing authorization (or a pending application for authorization) in order to comply with new or additional requirements of the Commission's rules or the rules of another Federal agency. However, if the applicant also requests an additional modification, renewal, or other action, the appropriate fee for such additional request must accompany the application. Cases in which a fee will be paid include applications by FM and TV licensees or permittees seeking to upgrade channel after a rulemaking.

(b) Applicants in the Special Emergency Radio and Public Safety Radio Services that are government entities

or nonprofit entities. Applicants claiming nonprofit status must include a current Internal Revenue Service Determination Letter documenting this nonprofit status.

(c) Applicants, permittees or licensees of noncommercial educational broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees who certify that the station will operate or does operate in accordance with § 73.503 of the rules.

(d) Applicants, permittees, or licensees qualifying under paragraph (c) of this section requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service) private radio service, or common carrier radio communications service otherwise requiring a fee, if the radio service is used in conjunction with the noncommercial educational broadcast station on a noncommercial educational basis.

(e) Other applicants, permittees, or licensees providing, or proposing to provide, a noncommercial educational or instructional service, but not qualifying under paragraph (c) of this section, may be exempt from filing fees, or be entitled to a refund, in the following circumstances.

(1) An applicant is exempt from filing fees if it is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on a noncommercial educational basis;

(2) An applicant for a translator or low power television station that proposes a noncommercial educational service will be entitled to a refund of fees paid for the filing of the application when, after grant, it provides proof that it has received funding for the construction of the station through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission.

(3) An applicant that has qualified for a fee refund under paragraph (e)(2) of this section and continues to operate as a noncommercial education station

is exempt from fees for broadcast auxiliary stations (subparts D, E, and F of part 74) or stations in the private radio or common carrier services where such authorization is to be used in conjunction with the noncommercial educational translator or low power station.

(4) An applicant that is the licensee of an instructional television fixed station (§ 74.901 *et seq.*) is exempt from filing fees where the authorization requested will be used by the applicant in conjunction with the provision of the instructional service.

(f) Applicants, permittees or licensees who qualify as governmental entities. For purposes of this exemption a governmental entity is defined as any state, possession, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected or duly appointed public officials exercising sovereign direction and control over their respective communities or programs.

(g) Applications for Restricted Radiotelephone Operator Permits where the applicant intends to use the permit solely in conjunction with duties performed at radio facilities qualifying for fee exemption under paragraphs (c), (d), or (e) of this section.

NOTE: Applicants claiming exemptions under the terms of this subpart must certify as to their eligibility for the exemption through a cover letter accompanying the application or filing. This certification is not required if the applicable FCC Form requests the information justifying the exemption.

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§ 1.1115 Adjustments to charges.

(a) The Schedule of Charges established by sections 1.1102 through 1.1106 of this subpart shall be adjusted by the Commission on October 1, 1993 and every two years thereafter.

(1) The fees will be adjusted by the Commission to reflect the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) from the date of enactment of the authorizing legislation (December 19, 1989) to the